IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR.

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S.B. CIVIL WRIT PETITION NO.2862/2005

Nirmala Devi

Versus

The State of Rajasthan and ors.

Date of Order :18.5.2005

PRESENT

HON'BLE MR. JUSTICE R.P. VYAS

Mr.Devendra Singh, for the petitioner/s

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. The present writ petition has been filed by the petitioner with the prayer that the respondents be directed to grant all the consequential benefits to the petitioner from the date of initial appointment with an interest @ 18% p.a.

The brief facts of the case are that the petitioner Nirmala Devi belongs to Scheduled Caste category and had applied in pursuance for the advertisement for appointment of Teacher Gr.III, issued by the respondent No.3, way back, in the year 1999, alongwith Smt. Parvindra Kaur, who also applied for the post of Teacher Gr.III.

After selection, the name of Smt. Parvindra Kaur was shown at Sr. No.1 in the merit list. However, the present petitioner was offered appointment on the ground that in the note put under the select sheet, recommendation was made in her favour to be appointed on the basis of higher qualification on 23.2.1999 and she was also sent for training before appointment, instead of Smt. Parvindra Kaur.

Under these circumstances, Smt. Parvindra Kaur filed a writ petition, bearing S.B. Civil Writ Petition No. 1372/1999, which was disposed of vide order dated 19.5.2000 directing the petitioner to file a detailed representation before the competent authority and the authorities were directed to consider the representation of the petitioner, who was likely to be adversely affected.

Thereafter, after considering the case of Smt. Parvindra Kaur, she was offered appointment and the appointment made, in favour of the present petitioner, was declared cancelled.

Being aggrieved by cancellation of her appointment, the present petitioner filed a writ petition, bearing S.B. Civil Writ Petition No. 4500/2000, inter alia, contending that during the relevant time, the hearing of the representation of Smt. Parvindra Kaur was fixed, she has delivered a child and was on maternity leave and, therefore, she has not been accorded an adequate opportunity of hearing before cancelling her appointment. The selection of the petitioner on the post of Teacher Gr. III offered to her by a mistaken view of arranging the order of merit by the Selection Committee, for which the petitioner was not responsible.

The writ petition filed by the petitioner was dismissed on the ground that Smt. Parvindra Kaur was not impleded as a party respondent.

Against the order dated 6.12.2000,the petitioner preferred an appeal before the Division Bench.

The Division Bench of this Court allowed the appeal holding that petitioner will be allowed to continue on the post, without

affecting the appointment of Smt. Parvindra Kaur and her seniority in the order of merit.

The further case of the petitioner is that after the judgment of the Division Bench of this Court, the petitioner was appointed on the minimum basic pay of Rs.4500/- and since then, she has not been granted the benefit of annual grade increment etc. and she is working only on the minimum basic pay from the date of issuance of direction by this Court.

The petitioner submitted a representation on 24.8.2004, but to no avail.

The petitioner also sent a notice for demand of justice but the same has also not been responded by the respondents.

Admittedly, the petitioner has submitted a number of representations and have also sent a notice for demand of justice, but the respondents have not paid any heed to her grievance, nor any reply was given by the respondents to the representations submitted by her.

Be that as it may, during the course of argument, it has been requested by the learned counsel for the petitioner that the respondents be directed to consider the representation of the petitioner as also the notice for demand of justice.

Since the request of the petitioner is only for consideration of the representation, the writ petition can be disposed of, at this stage, by giving a direction to the competent authority to consider the case of the petitioner regarding grant of all consequential benefits flowing from her appointment on the post of Teacher Gr. III.

Thus, this writ petition filed by the petitioner is disposed of in the manner that the petitioner is directed to file a fresh representation within a period of 15 days and the competent authority shall decide the same either way in accordance with law within a period of one month from the date of receipt of the said representation.

If it is found that the petitioner

is entitled for any relief, in accordance with law, then the same may be given to her and if it is found that the petitioner is not entitled to the relief sought for, then a speaking and reasoned order, strictly in accordance with law, may be passed.

(R.P.VYAS)J.

Rm/